

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Monday, September 26, 2016

The regular monthly meeting of the City Civil Service Commission was held on Monday, September 26, 2016 at 1340 Poydras Street, Suite 964. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Michelle D. Craig, Vice-Chairperson Ronald P. McClain and Commissioner Joseph Clark representing a quorum. Chairperson Craig convened the meeting at 10:12 a.m. The Commission then proceeded by sounding the Commission's docket. At 10:55 a.m. on motion of Vice-Chairperson McClain and seconded by Commissioner Clark, the Commission voted unanimously to go into executive session. Commissioner Tania Tetlow joined the meeting at 11:20 a.m. At 11:35 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from the June 20, 2016 and July 18, 2016 meetings. Commissioner Tetlow moved to approve the minutes. Commissioner Clark seconded the motion and it was approved unanimously.

Item #2 was the Election of the Chairman and Vice Chairman of the Civil Service Commission in accordance with Rule II, Section 1.6. Commissioner McClain nominated Michelle Craig as Chairperson. The nomination was seconded by Commissioner Clark and approved unanimously.

Chairperson Tetlow nominated Ronald McClain as Vice-Chairperson. The nomination was seconded by Commissioner Clark and approved by all Commissioners.

Item #3 was a request from the New Orleans Fire Fighters Association to address the Commission regarding three topics. Item #3(a) was the Fire Captain promotional process. Nicholas Felton spoke on behalf of the New Orleans Fire Fighters Association. He stated that the authority of the Commission had been compromised. The new process reeks of favoritism and has affected morale. He stated Civil Service is referred to fourteen times in the Superintendent's promotional policy, but the policy has not been reviewed by the Commission or its staff. He believes the policy violates state law. He went on to state that considering training as part of the promotional process was unfair because employees do not have equal access to the

training. He stated that training requirements should have been listed on the job announcement so that everyone was aware of the requirements.

Mr. Felton also raised the issue of promotions being based on support of the Superintendent's initiatives. He stated this was concerning because some members have raised concerns over the safety of the Superintendent's initiatives.

Mr. Felton went on to say that currently, trust is in one person, not the system. When the person changes, the process changes which is unfair to department members.

Chairperson Craig stressed the importance of both sides meeting to discuss concerns with the policy. Commissioner McClain stated that employees who felt they were passed over have the remedy of appeal to the Personnel Director.

Superintendent Timothy McConnell asked Mr. Felton about how he believed points for education should be weighted. Mr. Felton stated that the issue is not how the points are configured, but that it is announced prior to the test, not a year after.

Superintendent McConnell stated that the promotional policy is the first under the Great Place to Work Initiative. The intent of the policy is to make it clear that all of a person's resume would be considered and to lay out the new process under the new rule. He stated that those provisional employees who did not pass the exam have been demoted and others have been promoted.

Superintendent McConnell went on to describe the selection process. He stated that resumes and personnel folders were reviewed by the promotional committee which was made up of himself and the three Deputy Superintendents. The committee decided who to bring in for the interview based on the fifteen factors in the policy. Sixty-three people were selected to be interviewed by Chief McConnell and the Deputy Superintendents. The sixty-three included the top forty-seven scores on the exam and fifteen more from all over the register. He selected forty for promotion. Nine of the top ten and twenty-five of the top forty-seven were selected. The top three on the list were promoted. He stated that there were great candidates on the list and he wished he had more positions. He stated he did not think promoting simply by the exam score or by seniority is fair.

Edward Poole, a Fire Captain, stated he took the District Chief Test in 2012. He was passed over for promotion on two separate occasions. He acted out of his classification thirty-two times in 2015 as a District Chief. He stated he met with Chief McConnell and asked what criteria for selection were used. He stated Chief McConnell replied that he selected the five most qualified individuals. He went on to state that he had fulfilled all of the Civil Service requirements and he is still waiting to be promoted. He stated that the current promotional practices should be stopped.

Commissioner McClain asked Captain Poole if he was aware of the remedy under the Rules for individuals who believe they have been skipped over on the eligible list. Captain Poole responded that he was currently in that process.

Donovan Livaccari, Fraternal Order of Police, stated that Police Officers don't know what it takes to get promoted. Appeals have been filed, but there is still no answer regarding what the process is to get promoted. The Great Place to Work rules do not provide a fair manner for judging for promotion based on merit as required by the Constitution and need to be rethought. The eight things listed in the NOPD Operations manual are generic things taken from the Consent Decree. He further stated that the appeals hearing revealed that the Superintendent picked who he wanted to promote. Mr. Livaccari urged the Commission to rethink the Great Place to Work rule changes.

Keith Noya, a retired firefighter, stated that the Great Place to Work rules put too much authority in the hands of the Superintendent and that morale is the worst it has been since the 1986 layoff. He stated that the old way of selection for promotion worked well.

Terry Hampton, Local 632, stated that the Captain's list was released in May, but it took Civil Service sending a letter for the Superintendent to promote the forty people. The Superintendent had known for years he needed to make promotions. He further stated that the criteria for selection were made up after the test was administered. If people had known what the criteria were in advance, they would have worked to meet those criteria.

Clifton Moore, New Orleans Firefighters Association, stated that the discretion given to the Superintendent has returned the City to the spoils system. It puts faith in one person rather than the system. A system should be in place as a check and balance. The old system provided this balance with

the Rule of Three. He further stated that fairness has been removed to a large degree. Employees are demoralized and can't voice their opinion. The previous system was not perfect, but it was transparent.

Eric Eschete, a Fire Captain, stated that the issue with using training as a promotional criteria is that most training isn't for use as a Captain in Suppression, the most common assignment; it is specialized training for specialized divisions of the Fire Department. It should not be considered for promotion.

Nick Felton stated that the working test period allows for demotion if the person who scored highest on the list doesn't work out. He echoed Mr. Eschete's comments that training is for members of specialized units. Members of those units get preference for training slots. Everyone should be interviewed. Criteria should be known in advance. He further stated that turnover is high and that NOFD is the training ground for neighboring parishes.

Commissioner McClain reiterated that there is a policy in place for appealing the selections from the eligible list. Commissioner McClain also echoed Chairperson Craig's remarks regarding communicating and work through barriers. Chairperson Craig urged firefighters give the current process a chance to evolve just as the previous one did.

Robert Wilton, a Firefighter, stated he scored number one on the exam for Fire Captain and was skipped over. He stated there is no transparency in the selection process. He stated he was interviewed but does not know why he was not promoted. It was his opinion that the process failed. Commissioner McClain asked if he was aware of the remedy of appeal. He stated he is in the process of filing an appeal.

Rickey Richard, firefighter, stated we want things to be fair.

Chief McConnell stated that the first 47 people on the list were interviewed and that he believes the process is fair.

Mr. Felton asked that the appeals process be fast tracked. Commissioners Craig and McClain agreed to look into fast tracking the appeals process.

Commissioner McClain confirmed with Superintendent McConnell that the five people who tested but were not certifiable until they had six years of employment would be interviewed.

Item #3(b) was the New Orleans Fire Department's spontaneous compensation awards of millage payments for certain select civilians in 2016. Mr. Felton stated that Chief McConnell granted illegal compensation to a select group of civilian employees. The Constitution states that the Fire and Police Department share a mil. He went on to state that he values and respects the job the employees do, but there is a process to give pay raises to these employees. He noted the following rule violations: Civil Service Rules state that employee compensation is not to exceed that which is authorized under Rule IV. Increases and reductions in pay shall be reported to the Personnel Director. The Appointing Authority must post all special rates of pay. Director Hudson clarified that this referenced rule only applies to extraordinary qualifications pay. Mr. Felton continued listing violations including that notice of intent and reasons to reduce pay must be given to the employee and reported to the Personnel Director. Firefighters' pay was effectively reduced as a result of this action. He stated civilian employees were given millage checks of \$4240 and told not to tell anyone. The Louisiana Constitution states that millage is for the purpose of increasing the salary of Officers and men in the Fire Department. There is a process to amend the law and this was not done. Mr. Felton went on to question if a legal opinion was requested, did Civil Service authorize the pay, or was this just a decision made by the Superintendent.

Commissioner Tetlow asked Mr. Felton what he believed the "and men" provision of the law to mean. Mr. Felton responded that Judge Lombard found that millage tax was for one purpose only, to provide the City's emergency responders with additional compensation.

Commissioner Tetlow asked if Judge Lombard's ruling was in response to a challenge to giving civilian employees additional compensation. Mr. Felton first replied yes and later responded no. He then stated Counselor Louis Robein would be the best person to respond. Mr. Felton went on to state that there are laws against the giving of something of value away by public officials. Commissioner Tetlow stated that the payment of civilians is either required by the millage or not allowed. Mr. Felton stated that awarding the millage to civilians will affect NOPD if its civilian employees are eligible as well.

Commissioner McClain questioned if the millage was awarded to fifteen civilian employees. Chief McConnell stated the number was ten. Director Hudson confirmed it was ten.

McClain asked if all civilian employees at NOFD received the payment. Mr. Felton responded affirmatively.

Commissioner Tetlow stated that this is a purely legal issue. Plain language indicates someone other than Officer to be eligible for payment.

Brendan Greene, the Commission's attorney, stated that in the Fraternal Order of Police versus the City of New Orleans, the dispute was not about giving millage to civilians. Rather, it was about the intent of the millage; i.e. if it was being paid as a true supplement and if it was paid in a lump sum or throughout the year. He stated that he was unable to find case law regarding the civilian issue. He offered to brief the commission on his findings.

Commissioner Tetlow asked Nick Felton who the "and men" refers to. Donovan Livaccari offered that "officers" means supervisors and "men" means firefighters and police officers.

Nick Felton stated that this is the first year this has happened since the 1920s. This action directly reduces the pay of firefighters because there is a finite amount of money to be distributed. It amounts to approximately \$120 less per Firefighter.

Superintendent McConnell stated he had read the State Constitution and believed it applied to everyone in the Fire Department. He submitted a list of names to the Administration and included the civilians because he felt like it was the intent of the Constitutional Amendment. He stated it amounted to \$65 less per Firefighter.

Alexandra Norton, speaking for the Administration, stated that for years it had been the practice for the Fire and Police Departments to submit an excel spreadsheet with the names of employees eligible for the millage. She stated millage was not governed by a Civil Service Rule. Robert Hagmann stated that it is enumerated in the Pay Plan. Ms. Norton stated that the Administration would like the chance to work with the City Attorney's Office,

the Commission's Counsel and the Fire Department to look at the legality of what was done.

Commissioner Tetlow stated that this would affect NOPD which has a higher percentage of civilians and have a bigger impact on the pay of Police Officers.

Robert Hagmann stated that there is case law on the uniformity of the pay plan that requires the same schedule of pay for all persons in the same job classification. He stated that is why the millage is noted in the pay plan. Commissioner Tetlow asked Mr. Hagmann if he thought this matter is under the jurisdiction of the Commission. He responded that the Commission is the ultimate authority over pay. He stated that Fire had circumvented the Rules and the Commission's authority. Mr. Hagmann also cleared up confusion over the compensation being paid by the state. He stated that it was not State supplemental pay.

Chairperson Craig stated that the attorneys need to decide what is permissible under the law and return before the Commission.

Director Hudson stated that Item #3(c) New Orleans Civil Service/Fire Recruit selection process had already been covered. Chief McConnell stated that he followed a similar process to Captain. He took the first 113 people and sent background packets and qualifications questionnaires. He vetted that information and sent those individuals for background investigations and a urinalysis and brought all in who made it to that point for an interview. He then selected the most exceptional candidates.

Nick Felton stated that candidates should know about the selection process before the testing begins.

Item #4 was a report on delegation of authority to Sewerage and Water Board (S&WB). Brendan Greene stated that delegation is dependent on reaching certain legal standards. Those standards are: a clear expression of policy, sufficient standards to guide the agency receiving the delegated authority, and adequate procedural safeguards. He stated that the rule change clearly expresses the policy, the rules and delegation manual developed by the staff cover number two, and the auditing rule covers adequate procedural safeguards. He stated that the key to success is communication. Staff and S&WB have committed to bi-monthly meetings regarding delegation. Civil Service is hoping to increase staffing in order to dedicate a staff member

solely to S&WB issues. He stated training and delegation happened simultaneously and that the staff's process gives the training on real time staffing issues. He encouraged the Commission to create a committee to give the Commissioners better insight into the workings of delegation and allow them to be better equipped to address any issues.

Commissioner McClain asked if there had been a decision on length of time the employee from S&WB will be imbedded with Civil Service. Mr. Greene stated that the S&WB employee was embedded for seven weeks full time, however, that person has left S&WB. Staff will need to work with S&WB to figure out what training looks like going forward. Mr. Greene recommends leaving delegation as an agenda item.

Commissioner McClain stated he was impressed with staff's work on completing the delegation manual and that he is aware of S&WB's desire to hire many people in a short amount of time.

Director Hudson stated she plans to work with S&WB on a training schedule for the replacement.

Cedric Grant, the Executive Director of Sewerage and Water Board stated he agrees with Mr. Greene's assessment and that S&WB is experiencing typical challenges. Commissioner McClain stated he wants to be sure S&WB is moving forward with hiring those people S&WB can move forward with outside of the delegated process. Mr. Grant responded that they are.

Commissioner McClain motioned to establish a committee on delegation matters with Chairperson Craig and Commissioner Clark as members. Commissioner Tetlow seconded the motion and it was approved unanimously.

Item #5 was a request from the S&WB for an Unclassified Chief Investment Officer and Unclassified Security Investigator. Robert Hagmann, Personnel Administrator of the Classification and Compensation Division, stated that staff supports S&WB's request for an unclassified Chief Investment Officer reporting directly to the Executive Director. The position would engage in strategic planning and policy making relative to S&WB's pension system. Mr. Hagmann stated that the pay grade is somewhat higher than a similar position at the City due to additional investment policy making responsibilities. Commissioner Tetlow moved to approve the creation of this

position. Commissioner McClain seconded the motion and it carried unanimously.

Mr. Hagmann stated that staff recommended disapproval of the requested unclassified Security Investigator. The Commission recently approved an unclassified Deputy Director of Security to make policy. Based on the investigatory duties and responsibilities, staff recommends use of the existing classification of Senior Special Agent. The pay range is approximately \$47,000 to \$60,000. He stated that the requested unclassified position is at the same pay level as a Police Major or Commander.

Executive Director Cedric Grant stated he agreed with staff's recommendation.

Commissioner Tetlow moved to approve the classified version of the request. Commissioner McClain seconded the motion and it carried unanimously.

Item #6 was a request for the creation of a temporary unclassified position of Compliance Director for the Orleans Parish Sheriff's Office. Robert Hagmann spoke in support of the City's request. He stated the City was required by Federal Judge Lance Africk to hire a monitor for the management of the Orleans Parish Prison's Consent Decree. The current unclassified pay plan does not contain an appropriate position. As an interim measure, staff had allowed use of a vacated Executive Assistant to the Mayor.

Commissioner McClain moved to approve the request. Commissioner Tetlow seconded the motion and it carried unanimously.

Item #7 was a request to consider including a sunset provision on the amendment to the overtime rule and the "on call" special rate amendment recently adopted by the Commission. Brendan Greene reported that at the September 9th City Council meeting, the Council requested that the Commission consider revising the rule and pay plan amendment to include a sunset date. He stated S&WB represented that a substantial amount of overtime was due to staffing issues and that the Commission had been responsive to this issue. S&WB has agreed to provide quarterly reports of overtime and on call pay. The Commission can ask the staff to review hiring data to see if there is a corresponding decrease of overtime and on call pay as hiring is increased. Mr. Greene recommended September of 2017 for that review in order to contemplate the data in a public forum.

Item #8 was a request from the Service Employees International Union (SEIU) to address the Commission regarding the need for appointing authorities to complete the three month performance assessment on probationary employees in accordance with Rule VII, Section 1.2. Heather Larson of the SEIU stated that part of the Great Place to Work rule changes require supervisors to review new employees during the probationary period. This has not been done. There has been an uptick in the number of probationary period extensions. The three month review aides in providing feedback to employees so that they can improve their performance and remain employed. NORDC and the Sanitation Departments have not been performing the review as required. Ms. Larson asked the Commission to reverse the extension of the probationary period extension for the employees who had not been reviewed at three months based on the failure of the Appointing Authority to meet the requirements of the three month review. If they had been given the opportunity to receive feedback at three months, they may have remedied the issue that lead to the extension.

Director Hudson stated that probationary period extensions are approved if the deadlines for extension are met; the requests are not reviewed for the extension reason. Ms. Larson suggested a working group with Civil Service staff and the Great Place to Work architects to determine a way forward with compliance.

Alexandra Norton acknowledged the lack of compliance. She stated a Department Head meeting had been held on Friday and appointing authorities had been instructed to perform the reviews. She stated that the extended individuals at Sanitation all had disciplinary issues that lead to the extensions. Ms. Norton stated that the Great Place to Work rule changes ensured that probationary periods could not be extended longer than one year. Director Hudson clarified that that was already the case prior to these rule changes. Ms. Norton stated that in the case of NORDC, the department had made a request to Civil Service to make the probationary period of one year standard on job announcements. Employees who were hired prior to that request were also extended to one year to bring them to the same standard.

Commissioner McClain stated the Commission is not in a position to rescind extensions that were already made. Commissioner Tetlow stated that the Commission can put it on the agenda to report on the status of compliance with the rule.

Item #9(a) under Classification and Compensation Matters was a request for a 10% special rate of pay amendment to the Pay Plan for Police Field Training Officers (FTOs). Robert Hagmann stated the current pay for Field Training Officers is \$1500 per year. NOPD is requesting an increase to attract and retain the best FTOs. Staff expressed concerns that it would bring the pay of a Police Officer IV to that of the Sergeant who supervises him/her. NOPD addressed the issue by only applying the pay when a person is assigned a Recruit. Jonathan Wisbey stated that the request addresses a concern of the Consent Decree Monitor regarding the quality of trainers. Civil Service will monitor the pay to determine if there are issues with compression between the Police Officer IV classification and Sergeant.

Commissioner McClain moved approval of the request with continued monitoring by Civil Service staff. The motion was seconded by Commissioner Tetlow and approved unanimously.

Item #9(b) under classification and compensation matters was a request from NOPD to retroactively apply the Extraordinary Qualifications Pay Rule (Rule IV, Section 2.7) to Dr. Deidre Magee, Police Academy Administrator. Mr. Hagmann stated that the desire to apply this rule at the time of Ms. Magee' hiring had not been communicated to NOPD Human Resources. The rule does not allow for retroactivity. He stated that at the request of NOPD, staff had approved the retroactivity on an interim basis pending Commission approval. Per the rule, staff will audit the content of the request at a later date. Commissioner McClain moved approval of the request. The motion was seconded by Commissioner Tetlow and approved unanimously.

Item #9(c) was a request from Public Works for the creation of a new Construction Management job series. Robert Hagmann stated that the City has had a difficult time recruiting and retaining engineers. The proposed series is to attract people with engineering degrees without licenses to oversee construction projects. It includes four levels to ensure career progression.

Commissioner McClain moved approval of the request. The motion was seconded by Commissioner Tetlow and approved unanimously.

Item #9(d) was a request from Safety and Permits for a pay grade and class title change for Taxicab Operations Manager and a pay grade change for Taxicab Operations Supervisor. Mr. Hagmann stated this request is based

upon a job study request by the department to recognize additional managerial responsibilities and minimum qualifications requirements.

Commissioner McClain moved approval of the request. The motion was seconded by Commissioner Tetlow and approved unanimously.

Item #9(e) was a request from NORDC to raise the pay grade and class title change for Recreation Administrator I (Aquatics Director). Mr. Hagmann stated this change was to reflect the increase in responsibilities due to budgetary growth and staffing expansion as a result of growth of the Aquatics Program at NORDC.

Commissioner Tetlow moved approval of the request. The motion was seconded by Commissioner McClain and approved unanimously.

Item #9(f) was a request from the Fraternal Order of Police for an injury reclassification of Officer Mark Boyle. This item was withdrawn due to the request being approved prior to the meeting.

Item #10 was Examination announcements 9360-9424. Commissioner Tetlow moved approval of the announcements. The motion was seconded by Commissioner McClain and approved unanimously.

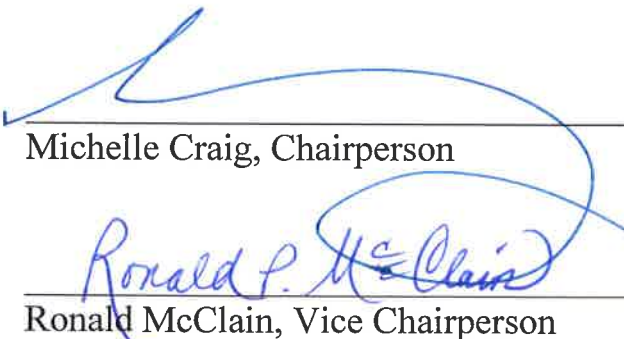
Item #11 was the Ratification of Public Integrity Bureau (PIB) 60 Day Extension Requests. Chairperson Craig called for public comment. There being none, Commissioner Tetlow moved approval of the extension requests. The motion was seconded by Commissioner McClain and approved unanimously.

Item #12 (a) Under Communications was a report on ADP ongoing issues. Director Hudson stated there was nothing to report. Alexandra Norton noted that a solution was found to an issue with paper forms.

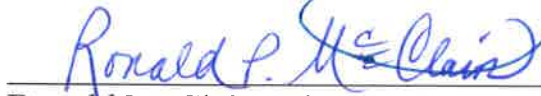
Director Hudson reported under Communication Item #12 (b), Civil Service Budget and Staffing, that a replacement for Richard Carter in the Test Development Division had been hired. Additionally under this item, at NOPD's request staff had begun after hours and weekend Police Recruit testing which required overtime. NOPD had agreed to pay for the overtime costs.

Under #12 (c) report on comprehensive classification and salary study, Director Hudson reported that the final selection committee would be held on September 27th and that two candidates were in the running.

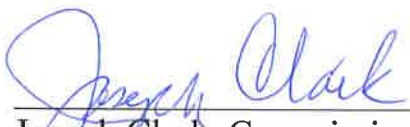
There being no additional business to consider, Commissioner McClain moved adjournment at 2:35 pm. The motion was seconded by Commissioner Tetlow and approved unanimously.



Michelle Craig, Chairperson



Ronald McClain, Vice Chairperson



Joseph Clark, Commissioner



Tania Tetlow, Commissioner